

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
and Petition to Revoke Probation
Against:**

Elizabeth Anne Sutherland, M.D.

Case No. 800-2017-032060

**Physician's and Surgeon's
Certificate No. G40463**

Respondent

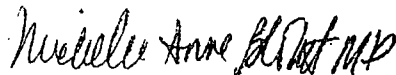
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 8, 2017.

IT IS SO ORDERED: October 9, 2017.

MEDICAL BOARD OF CALIFORNIA



**Michelle Anne Bholat, M.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LAWRENCE MERCER
Deputy Attorney General
4 State Bar No. 111898
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5539
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation/Petition to
13 Revoke Probation Against:

14 **ELIZABETH ANNE SUTHERLAND, M.D.**

15 **869 Ackerman Drive**
16 **Danville, Ca 94526-1849**

17 **Physician's and Surgeon's Certificate No.**
18 **G40463**

19 Respondent.

Case No. 800-2017-032060

20 **STIPULATED SETTLEMENT AND**
21 **DISCIPLINARY ORDER**

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
26 of California (Board). She brought this action solely in her official capacity and is represented in
27 this matter by Xavier Becerra, Attorney General of the State of California, by Lawrence Mercer,
28 Deputy Attorney General.

2. Respondent Elizabeth Anne Sutherland, M.D. (Respondent) is represented in this proceeding by attorney Jane Luciano, whose address is: 9000 Crow Canyon Road, Suite S168, Danville, CA 94506

3. On or about August 8, 2014, the Board issued Physician's and Surgeon's Certificate No. G40463 to Elizabeth Anne Sutherland, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation/Petition to Revoke Probation No. 800-2017-032060, and will expire on December 31, 2017, unless renewed.

JURISDICTION

4. Accusation/Petition to Revoke Probation was duly filed before the Medical Board of California, Department of Consumer Affairs, on May 26, 2017, and is currently pending against Respondent. A copy of Accusation/Petition to Revoke Probation No. 800-2017-032060 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation/Petition to Revoke Probation No. 800-2017-032060. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation/Petition to Revoke Probation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation/Petition to Revoke Probation No. 800-2017-032060, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation/Petition to Revoke Probation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation/Petition to Revoke Probation, and that Respondent hereby gives up her right to contest those charges.

10. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the Board probationary terms as set forth in the Disciplinary Order below.

11. Respondent agrees that if she ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations in Accusation/Petition to Revoke Probation No. 800-2017-032060 shall be deemed true, correct and fully admitted by her for purposes of that proceeding and any other licensing proceeding involving Respondent in the State of California.

CONTINGENCY

12. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or any participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated and Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G40463 issued to Respondent Elizabeth Anne Sutherland, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

2. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the use of products or beverages containing alcohol.

3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months

1 after Respondent's initial enrollment, and the longitudinal component of the program not later
2 than the time specified by the program, but no later than one (1) year after attending the
3 classroom component. The professionalism program shall be at Respondent's expense and shall
4 be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

5 A professionalism program taken after the acts that gave rise to the charges in the
6 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
7 or its designee, be accepted towards the fulfillment of this condition if the program would have
8 been approved by the Board or its designee had the program been taken after the effective date of
9 this Decision.

10 Respondent shall submit a certification of successful completion to the Board or its
11 designee not later than 15 calendar days after successfully completing the program or not later
12 than 15 calendar days after the effective date of the Decision, whichever is later.

13 4. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this
14 Decision, Respondent shall submit to the Board or its designee for prior approval the name and
15 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
16 has a doctoral degree in psychology and at least five years of postgraduate experience in the
17 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
18 undergo and continue psychotherapy treatment, including any modifications to the frequency of
19 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

20 The psychotherapist shall consider any information provided by the Board or its designee
21 and any other information the psychotherapist deems relevant and shall furnish a written
22 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
23 psychotherapist with any information and documents that the psychotherapist may deem
24 pertinent.

25 Respondent shall have the treating psychotherapist submit quarterly status reports to the
26 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
27 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
28 probation, Respondent is found to be mentally unfit to resume the practice of medicine without

1 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
2 period of probation shall be extended until the Board determines that Respondent is mentally fit
3 to resume the practice of medicine without restrictions.

4 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

5 5. SOLO PRACTICE PROHIBITION. Respondent is prohibited from
6 engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to,
7 a practice where: 1) Respondent merely shares office space with another physician but is not
8 affiliated for purposes of providing patient care, or 2) Respondent is the sole physician
9 practitioner at that location.

10 If Respondent fails to establish a practice with another physician or secure employment in
11 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
12 Respondent shall receive a notification from the Board or its designee to cease the practice of
13 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
14 practice until an appropriate practice setting is established.

15 If, during the course of the probation, the Respondent's practice setting changes and the
16 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
17 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
18 If Respondent fails to establish a practice with another physician or secure employment in an
19 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
20 shall receive a notification from the Board or its designee to cease the practice of medicine within
21 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
22 appropriate practice setting is established.

23 6. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Within thirty (30)
24 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as
25 may be required by the Board or its designee, Respondent shall undergo and complete a clinical
26 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed
27 board certified physician and surgeon. The examiner shall consider any information provided by
28 the Board or its designee and any other information he or she deems relevant, and shall furnish a

1 written evaluation report to the Board or its designee.

2 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
3 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of
4 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
5 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
6 professional standards for conducting substance abuse clinical diagnostic evaluations. The
7 evaluator shall not have a current or former financial, personal, or business relationship with
8 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and
9 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
10 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a
11 threat to himself or herself or others, and recommendations for substance abuse treatment,
12 practice restrictions, or other recommendations related to Respondent's rehabilitation and ability
13 to practice safely. If the evaluator determines during the evaluation process that Respondent is a
14 threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24)
15 hours of such a determination.

16 In formulating his or her opinion as to whether Respondent is safe to return to either part-
17 time or full-time practice and what restrictions or recommendations should be imposed, including
18 participation in an inpatient or outpatient treatment program, the evaluator shall consider the
19 following factors: Respondent's license type; Respondent's history; Respondent's documented
20 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
21 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical
22 history and current medical condition; the nature, duration and severity of Respondent's
23 substance abuse problem or problems; and whether Respondent is a threat to himself or herself or
24 the public.

25 For all clinical diagnostic evaluations, a final written report shall be provided to the Board
26 no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator
27 requests additional information or time to complete the evaluation and report, an extension may
28 be granted, but shall not exceed thirty (30) days from the date the evaluator was originally

1 assigned the matter.

2 The Board shall review the clinical diagnostic evaluation report within five (5) business
3 days of receipt to determine whether Respondent is safe to return to either part-time or full-time
4 practice and what restrictions or recommendations shall be imposed on Respondent based on the
5 recommendations made by the evaluator. Respondent shall not be returned to practice until he or
6 she has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating
7 that he or she has not used, consumed, ingested, or administered to himself or herself a prohibited
8 substance, as defined in section 1361.51, subdivision (e), of Title 16 of the California Code of
9 Regulations.

10 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall
11 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic
12 evaluation, including any and all testing deemed necessary by the examiner, the Board or its
13 designee, shall be borne by the licensee.

14 Respondent shall not engage in the practice of medicine until notified by the Board or its
15 designee that he or she is fit to practice medicine safely. The period of time that Respondent is
16 not practicing medicine shall not be counted toward completion of the term of probation.
17 Respondent shall undergo biological fluid testing as required in this Decision at least two (2)
18 times per week while awaiting the notification from the Board if he or she is fit to practice
19 medicine safely.

20 Respondent shall comply with all restrictions or conditions recommended by the examiner
21 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified
22 by the Board or its designee.

23 7. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within
24 seven (7) days of the effective date of this Decision, Respondent shall provide to the Board the
25 names, physical addresses, mailing addresses, and telephone numbers of any and all employers
26 and supervisors. Respondent shall also provide specific, written consent for the Board,
27 Respondent's worksite monitor, and Respondent's employers and supervisors to communicate
28 regarding Respondent's work status, performance, and monitoring.

1 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
2 Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff
3 privileges.

4 8. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit
5 to biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
6 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
7 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
8 make daily contact with the Board or its designee to determine whether biological fluid testing is
9 required. Respondent shall be tested on the date of the notification as directed by the Board or its
10 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at
11 any time, including weekends and holidays. Except when testing on a specific date as ordered by
12 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
13 basis. The cost of biological fluid testing shall be borne by the Respondent.

14 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.
15 During the second year of probation and for the duration of the probationary term, up to five (5)
16 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no
17 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing
18 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number
19 of random tests to the first-year level of frequency for any reason.

20 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
21 approved in advance by the Board or its designee, that will conduct random, unannounced,
22 observed, biological fluid testing and meets all of the following standards:

23 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
24 Association or have completed the training required to serve as a collector for the United
25 States Department of Transportation.

26 (b) Its specimen collectors conform to the current United States Department of
27 Transportation Specimen Collection Guidelines.

28 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published

1 by the United States Department of Transportation without regard to the type of test
2 administered.

3 (d) Its specimen collectors observe the collection of testing specimens.

4 (e) Its laboratories are certified and accredited by the United States Department of Health
5 and Human Services.

6 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
7 of receipt and all specimens collected shall be handled pursuant to chain of custody
8 procedures. The laboratory shall process and analyze the specimens and provide legally
9 defensible test results to the Board within seven (7) business days of receipt of the
10 specimen. The Board will be notified of non-negative results within one (1) business day
11 and will be notified of negative test results within seven (7) business days.

12 (g) Its testing locations possess all the materials, equipment, and technical expertise
13 necessary in order to test Respondent on any day of the week.

14 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
15 for the detection of alcohol and illegal and controlled substances.

16 (i) It maintains testing sites located throughout California.

17 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
18 computer database that allows the Respondent to check in daily for testing.

19 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
20 access to drug test results and compliance reporting information that is available 24 hours a
21 day.

22 (l) It employs or contracts with toxicologists that are licensed physicians and have
23 knowledge of substance abuse disorders and the appropriate medical training to interpret
24 and evaluate laboratory biological fluid test results, medical histories, and any other
25 information relevant to biomedical information.

26 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
27 while practicing, even if the Respondent holds a valid prescription for the substance.

28 Prior to changing testing locations for any reason, including during vacation or other travel,

1 alternative testing locations must be approved by the Board and meet the requirements above.

2 The contract shall require that the laboratory directly notify the Board or its designee of
3 non-negative results within one (1) business day and negative test results within seven (7)
4 business days of the results becoming available. Respondent shall maintain this laboratory or
5 service contract during the period of probation.

6 A certified copy of any laboratory test result may be received in evidence in any
7 proceedings between the Board and Respondent.

8 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
9 administered to himself or herself a prohibited substance, the Board shall order Respondent to
10 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
11 medicine or providing medical services. The Board shall immediately notify all of Respondent's
12 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
13 provide medical services while the cease-practice order is in effect.

14 A biological fluid test will not be considered negative if a positive result is obtained while
15 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
16 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

17 After the issuance of a cease-practice order, the Board shall determine whether the positive
18 biological fluid test is in fact evidence of prohibited substance use by consulting with the
19 specimen collector and the laboratory, communicating with the licensee, his or her treating
20 physician(s), other health care provider, or group facilitator, as applicable.

21 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the
22 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

23 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
24 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
25 Respondent and approved by the Board, alcohol, or any other substance the Respondent has been
26 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

27 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
28 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the

1 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
2 any other terms or conditions the Board determines are necessary for public protection or to
3 enhance Respondent's rehabilitation.

4 9. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty
5 (30) days of the effective date of this Decision, Respondent shall submit to the Board or its
6 designee, for its prior approval, the name of a substance abuse support group which he or she
7 shall attend for the duration of probation. Respondent shall attend substance abuse support group
8 meetings at least once per week, or as ordered by the Board or its designee. Respondent shall pay
9 all substance abuse support group meeting costs.

10 The facilitator of the substance abuse support group meeting shall have a minimum of three
11 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed
12 or certified by the state or nationally certified organizations. The facilitator shall not have a
13 current or former financial, personal, or business relationship with Respondent within the last five
14 (5) years. Respondent's previous participation in a substance abuse group support meeting led by
15 the same facilitator does not constitute a prohibited current or former financial, personal, or
16 business relationship.

17 The facilitator shall provide a signed document to the Board or its designee showing
18 Respondent's name, the group name, the date and location of the meeting, Respondent's
19 attendance, and Respondent's level of participation and progress. The facilitator shall report any
20 unexcused absence by Respondent from any substance abuse support group meeting to the Board,
21 or its designee, within twenty-four (24) hours of the unexcused absence.

22 10. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE.
23 Within thirty (30) calendar days of the effective date of this Decision, Respondent shall submit to
24 the Board or its designee for prior approval as a worksite monitor, the name and qualifications of
25 one or more licensed physician and surgeon, other licensed health care professional if no
26 physician and surgeon is available, or, as approved by the Board or its designee, a person in a
27 position of authority who is capable of monitoring the Respondent at work.

28 The worksite monitor shall not have a current or former financial, personal, or familial

1 relationship with Respondent, or any other relationship that could reasonably be expected to
2 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
3 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite
4 monitor, this requirement may be waived by the Board or its designee, however, under no
5 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

6 The worksite monitor shall have an active unrestricted license with no disciplinary action
7 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
8 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth
9 by the Board or its designee.

10 Respondent shall pay all worksite monitoring costs.

11 The worksite monitor shall have face-to-face contact with Respondent in the work
12 environment on as frequent a basis as determined by the Board or its designee, but not less than
13 once per week; interview other staff in the office regarding Respondent's behavior, if requested
14 by the Board or its designee; and review Respondent's work attendance.

15 The worksite monitor shall verbally report any suspected substance abuse to the Board and
16 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
17 substance abuse does not occur during the Board's normal business hours, the verbal report shall
18 be made to the Board or its designee within one (1) hour of the next business day. A written
19 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
20 any other information deemed important by the worksite monitor shall be submitted to the Board
21 or its designee within 48 hours of the occurrence.

22 The worksite monitor shall complete and submit a written report monthly or as directed by
23 the Board or its designee which shall include the following: (1) Respondent's name and
24 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
25 the worksite monitor's license number, if applicable; (4) the location or location(s) of the
26 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
27 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
28 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can

1 lead to suspected substance abuse by Respondent. Respondent shall complete any required
2 consent forms and execute agreements with the approved worksite monitor and the Board, or its
3 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

4 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)
5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
6 approval, the name and qualifications of a replacement monitor who will be assuming that
7 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a
8 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the
9 monitor, Respondent shall receive a notification from the Board or its designee to cease the
10 practice of medicine within three (3) calendar days after being so notified. Respondent shall
11 cease the practice of medicine until a replacement monitor is approved and assumes monitoring
12 responsibility.

13 11. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE
14 ABUSING LICENSEES . Failure to fully comply with any term or condition of probation is a
15 violation of probation.

16 A. If Respondent commits a major violation of probation as defined by section
17 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
18 one or more of the following actions:

19 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
20 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of
21 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice
22 order issued by the Board or its designee shall state that Respondent must test negative for at least
23 a month of continuous biological fluid testing before being allowed to resume practice. For
24 purposes of determining the length of time a Respondent must test negative while undergoing
25 continuous biological fluid testing following issuance of a cease-practice order, a month is
26 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until
27 notified in writing by the Board or its designee that he or she may do so.

28 (2) Increase the frequency of biological fluid testing.

1 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or
2 other action as determined by the Board or its designee.

3 B. If Respondent commits a minor violation of probation as defined by section
4 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
5 one or more of the following actions:

- 6 (1) Issue a cease-practice order;
7 (2) Order practice limitations;
8 (3) Order or increase supervision of Respondent;
9 (4) Order increased documentation;
10 (5) Issue a citation and fine, or a warning letter;
11 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in
12 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
13 Regulations, at Respondent's expense;

14 (7) Take any other action as determined by the Board or its designee.

15 C. Nothing in this Decision shall be considered a limitation on the Board's authority
16 to revoke Respondent's probation if he or she has violated any term or condition of probation. If
17 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
18 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
19 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
20 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
21 is final, and the period of probation shall be extended until the matter is final.

22 12. NOTIFICATION. Within seven (7) days of the effective date of this
23 Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief
24 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
25 extended to Respondent, at any other facility where Respondent engages in the practice of
26 medicine, including all physician and locum tenens registries or other similar agencies, and to the
27 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
28 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within

1 15 calendar days.

2 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

3 13. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED
4 PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician
5 assistants and advanced practice nurses.

6 14. OBEY ALL LAWS. Respondent shall obey all federal, state and local
7 laws, all rules governing the practice of medicine in California and remain in full compliance
8 with any court ordered criminal probation, payments, and other orders.

9 15. QUARTERLY DECLARATIONS. Respondent shall submit quarterly
10 declarations under penalty of perjury on forms provided by the Board, stating whether there has
11 been compliance with all the conditions of probation.

12 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
13 of the preceding quarter.

14 16. GENERAL PROBATION REQUIREMENTS.

15 Compliance with Probation Unit

16 Respondent shall comply with the Board's probation unit.

17 Address Changes

18 Respondent shall, at all times, keep the Board informed of Respondent's business and
19 residence addresses, email address (if available), and telephone number. Changes of such
20 addresses shall be immediately communicated in writing to the Board or its designee. Under no
21 circumstances shall a post office box serve as an address of record, except as allowed by Business
22 and Professions Code section 2021(b).

23 Place of Practice

24 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
25 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
26 facility.

27 License Renewal

28 Respondent shall maintain a current and renewed California physician's and surgeon's

1 license.

2 Travel or Residence Outside California

3 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
4 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
5 (30) calendar days.

6 In the event Respondent should leave the State of California to reside or to practice,
7 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
8 departure and return.

9 17. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent
10 shall be available in person upon request for interviews either at Respondent's place of business
11 or at the probation unit office, with or without prior notice throughout the term of probation.

12 18. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the
13 Board or its designee in writing within 15 calendar days of any periods of non-practice lasting
14 more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-
15 practice is defined as any period of time Respondent is not practicing medicine as defined in
16 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
17 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If
18 Respondent resides in California and is considered to be in non-practice, Respondent shall
19 comply with all terms and conditions of probation. All time spent in an intensive training
20 program which has been approved by the Board or its designee shall not be considered non-
21 practice and does not relieve Respondent from complying with all the terms and conditions of
22 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
23 on probation with the medical licensing authority of that state or jurisdiction shall not be
24 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
25 period of non-practice.

26 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
27 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
28 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program

1 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
2 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

3 Respondent's period of non-practice while on probation shall not exceed two (2) years.

4 Periods of non-practice will not apply to the reduction of the probationary term.

5 Periods of non-practice for a Respondent residing outside of California will relieve
6 Respondent of the responsibility to comply with the probationary terms and conditions with the
7 exception of this condition and the following terms and conditions of probation: Obey All Laws;
8 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
9 Controlled Substances; and Biological Fluid Testing.

10 19. COMPLETION OF PROBATION. Respondent shall comply with all
11 financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to
12 the completion of probation. Upon successful completion of probation, Respondent's certificate
13 shall be fully restored.

14 20. VIOLATION OF PROBATION. Failure to fully comply with any term or
15 condition of probation is a violation of probation. If Respondent violates probation in any
16 respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke
17 probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to
18 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,
19 the Board shall have continuing jurisdiction until the matter is final, and the period of probation
20 shall be extended until the matter is final.

21 21. LICENSE SURRENDER. Following the effective date of this Decision, if
22 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
23 the terms and conditions of probation, Respondent may request to surrender his or her license.
24 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
25 determining whether or not to grant the request, or to take any other action deemed appropriate
26 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
27 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
28 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject

1 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
2 application shall be treated as a petition for reinstatement of a revoked certificate.

3
4 22. PROBATION MONITORING COSTS. Respondent shall pay the costs
5 associated with probation monitoring each and every year of probation, as designated by the
6 Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical
7 Board of California and delivered to the Board or its designee no later than January 31 of each
8 calendar year.

9
10 ACCEPTANCE

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
12 discussed it with my attorney, Jane Luciano. I understand the stipulation and the effect it will
13 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
14 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
15 Decision and Order of the Board.

16
17 DATED: 8-29-17

Elizabeth Anne Sutherland
ELIZABETH ANNE SUTHERLAND, M.D.
Respondent

18
19
20
21
22 I have read and fully discussed with Respondent Elizabeth Anne Sutherland, M.D. the
23 terms and conditions and other matters contained in the above Stipulated Settlement and
24 Disciplinary Order. I approve its form and content.

25
26 DATED: 09-11-17

Jane Luciano
JANE LUCIANO
Attorney for Respondent

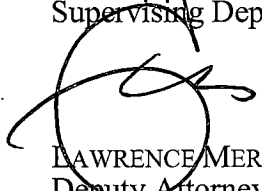
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

Dated: 9/13/2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General


LAWRENCE MERCER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
LAWRENCE MERCER
Deputy Attorney General
State Bar No. 111898
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5539
Facsimile: (415) 703-5480
Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition to
Revoke Probation Against,

Case No. 800-2017-032060

ELIZABETH ANNE SUTHERLAND, M.D.
869 Ackerman Drive
Danville, Ca 94526-1849

ACCUSATION AND PETITION TO
REVOKE PROBATION

Physician's and Surgeon's Certificate No. G40463

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation and Petition to Revoke Probation solely in her official capacity as the Executive Director of the Medical Board of California.

2. On or about August 3, 1979, the Medical Board of California issued Physician's and Surgeon's Certificate Number G40463 to Elizabeth Anne Sutherland, M.D. (Respondent). The Physician's and Surgeon's Certificate expired on December 31, 2000, and was canceled on December 31, 2005. On August 8, 2014, a probationary license was issued to Respondent and was in effect at all times relevant to the charges brought by herein and will expire on December 31, 2017, unless renewed. A Cease Practice Order, which prohibits Respondent from engaging in

1 the practice of medicine pending a final decision on this Accusation and Petition to Revoke
2 Probation, was issued on May 3, 2017, and is currently in effect.

3 3. In a disciplinary action entitled "In the Application of: Elizabeth Anne Sutherland,
4 M.D.," Case No. 800-2014-006704, the Board, issued a decision, effective August 7, 2014, in
5 which Respondent was issued a Physician's and Surgeon's Certificate on a probationary basis for
6 a period of five (5) years with certain terms and conditions, including abstinence from drugs and
7 drug testing. A copy of that decision is attached as Exhibit A and is incorporated by reference.

8 JURISDICTION

9 4. This Accusation and Petition to Revoke Probation is brought before the Board under
10 the authority of the following laws. All section references are to the Business and Professions
11 Code unless otherwise indicated.

12 5. Section 2221 of the Code states:

13 "(a) The board may deny a physician's and surgeon's certificate or postgraduate training
14 authorization letter to an applicant guilty of unprofessional conduct or of any cause that would
15 subject a licensee to revocation or suspension of his or her license. The board in its sole
16 discretion, may issue a probationary physician's and surgeon's certificate to an applicant subject
17 to terms and conditions, including, but not limited to, any of the following conditions of
18 probation:

19 "(1) Practice limited to a supervised, structured environment where the licensee's
20 activities shall be supervised by another physician and surgeon.

21 "(2) Total or partial restrictions on drug prescribing privileges for controlled
22 substances.

23 "(3) Continuing medical or psychiatric treatment.

24 "(4) Ongoing participation in a specified rehabilitation program.

25 "(5) Enrollment and successful completion of a clinical training program.

26 "(6) Abstention from the use of alcohol or drugs.

27 "(7) Restrictions against engaging in certain types of medical practice.
28

1 “(8) Compliance with all provisions of this chapter.

2 “(9) Payment of the cost of probation monitoring.”

3 6. Section 2227 of the Code provides that a licensee who is found guilty under the
4 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
5 one year, placed on probation and required to pay the costs of probation monitoring, or such other
6 action taken in relation to discipline as the Board deems proper.

7 7. Section 2228 of the Code states:

8 “The authority of the board or the California Board of Podiatric Medicine to discipline a
9 licensee by placing him or her on probation includes, but is not limited to, the following:

10 “(a) Requiring the licensee to obtain additional professional training and to pass an
11 examination upon the completion of the training. The examination may be written or oral, or
12 both, and may be a practical or clinical examination, or both, at the option of the board or the
13 administrative law judge.

14 “(b) Requiring the licensee to submit to a complete diagnostic examination by one or more
15 physicians and surgeons appointed by the board. If an examination is ordered, the board shall
16 receive and consider any other report of a complete diagnostic examination given by one or more
17 physicians and surgeons of the licensee's choice.

18 “(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including
19 requiring notice to applicable patients that the licensee is unable to perform the indicated
20 treatment, where appropriate.

21 “(d) Providing the option of alternative community service in cases other than violations
22 relating to quality of care.

23 ///

24 ///

1 8. Section 2234 of the Code, states:

2 “The board shall take action against any licensee who is charged with unprofessional
3 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
4 limited to, the following:

5 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
6 violation of, or conspiring to violate any provision of this chapter.

7 “. . . (f) Any action or conduct which would have warranted the denial of a certificate.”

8 9. Section 2239 of the Code states:

9 (a) The use or prescribing for or administering to himself or herself, of any controlled
10 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic
11 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
12 any other person or to the public, or to the extent that such use impairs the ability of the licensee
13 to practice medicine safely or more than one misdemeanor or any felony involving the use,
14 consumption, or self-administration of any of the substances referred to in this section, or any
15 combination thereof; constitutes unprofessional conduct. The record of the conviction is
16 conclusive evidence of such unprofessional conduct.”

17
18 10. Title 16, California Code of Regulations, section 1361.5 provides that if a licensee it
19 to be disciplined for unprofessional conduct involving the abuse of drugs or alcohol, the licensee
20 shall be presumed to be a substance-abusing licensee. In such cases, those terms prescribed in
21 section 1361.5 shall be required, including, but not limited to: 1) clinical diagnostic evaluation;
22 2) notice to employer; 3) biological fluid testing; 4) group support meetings; 5) worksite monitor.

23
24 CAUSE FOR DISCIPLINARY ACTION

25 11. Respondent Elizabeth Anne Sutherland, M.D., is subject to disciplinary action under
26 section 2234 and/or 2239 of the Code in that Respondent engaged in unprofessional conduct and
27 excessively used controlled substances. The circumstances are as follows:
28

12. Effective August 7, 2014, Respondent was issued a probationary license to practice medicine. The decision required that Respondent abstain from use of controlled substances and other dangerous drugs and prescription medications, except those lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

13. On March 25, 2015, Respondent advised that she had undergone a shoulder surgery on March 23, 2015, and that the surgeon had prescribed Norco¹ for post-operative pain relief. She advised that she doubted she would use all of the 60 tablets prescribed and that she would "take them to a local police station for disposal."

14. On November 23, 2015, Respondent advised that she had undergone a further shoulder surgery and had been prescribed Percocet², #48, by the surgeon. She advised that her husband would store the medication in a secure place and only dispense it as needed.

15. On October 26, 2016, Respondent was selected to submit a hair sample for testing. Respondent stated that traffic kept her from reaching the testing location on time.

16. On October 27, 2016, Respondent submitted a hair sample that tested positive for oxycodone. Respondent explained that she had been taking medication left from her November 2015 shoulder surgery for pain related to a molar extraction. She reported that she had also been prescribed six tablets of Percocet by her dental surgeon.

17. On March 14, 2017, Respondent notified the Board that she had been selected for another special test and that she might test positive for low levels of oxycodone due to her October 2016 prescription. Respondent's test results were positive for oxycodone, 289 pg/mg.

¹ Norco is a trade name for a combination of hydrocodone and acetaminophen. Norco is an opioid pain medication and a controlled substance with a high potential for dependence and abuse.

² Percocet is a trade name for a combination of oxycodone and acetaminophen. Percocet is an opioid pain medication and a controlled substance with a high potential for dependence and abuse.

18. On April 17, 2017, the Board received the result of a urine sample collected from Respondent on April 12, 2017. The sample was positive for Tramadol³ at 38,227 ng/ml. Respondent explained that she must have accidentally taken tramadol prescribed for her husband, stating that she had been ill and probably “underslept” when she mistook her husband’s medication for her own.

19. Respondent is guilty of unprofessional conduct and Respondent's certificate is subject to discipline for violation of Business and Professions Code section 2234 and/or 2239, including but not limited to:

A. Respondent stored and used a controlled substance prescribed for a 2015 shoulder surgery a year later, on one or more occasions, for a condition unrelated to the shoulder pain for which it was prescribed;

B. Respondent used a controlled substance that was not prescribed to her.

CAUSE TO REVOKE PROBATION

(Violation of Terms of Probation)

20. At all times after the effective date of Respondent's probation, Condition 3 stated:

Probationary Condition No. 3, Controlled Substances -- Abstain from Use, requires the probationer to abstain completely from personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022 and any drugs requiring a prescription.

21. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 3, referenced above. The facts and circumstances regarding this violation are as follows:

A. On October 27, 2016, Respondent tested positive for oxycodone;

³ Tramadol, which is marketed under the trade name Ultram, is a narcotic-like pain medication and a controlled substance. Tramadol has been linked to drug dependence and abuse.

1 B. On March 14, 2017, Respondent tested positive for oxycodone;

2 C. On April 12, 2017, Respondent tested positive for Tramadol.

3 DISCIPLINE CONSIDERATIONS

4 22. To determine the degree of discipline, if any, to be imposed on Respondent,
5 Complainant alleges that on or about May 31, 2002, in a prior disciplinary action in Case No. 16-
6 2002-131045, Respondent received a Public Letter of Reprimand for prescribing to a family
7 member. Complainant further alleges that on January 3, 2017, Respondent received a Citation
8 and Fine for failure to undergo testing when required, as is set forth in Paragraph No. 15 above.
9

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board issue a decision:

13 1. Revoking the probation that was granted by the Medical Board of California in Case
14 No. 800-2014-006704 and imposing the underlying Order of revocation;

15 2. Revoking or suspending Physician's and Surgeon's Certificate No. G40463, issued to
16 Elizabeth Anne Sutherland, M.D.;

17 3. Revoking, suspending or denying approval of Elizabeth Anne Sutherland, M.D.'s
18 authority to supervise physician assistants pursuant to section 3527 of the Code and advanced
19 practice nurses;
20

21 ///

22 ///

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25 ///

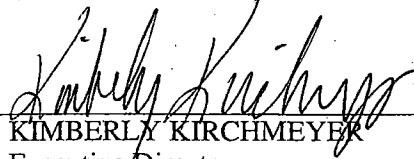
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27 ///

1 4. Ordering Elizabeth Anne Sutherland, M.D., if placed on probation, to pay to the
2 Board the costs of probation monitoring;

3 5. Taking such other and further action as deemed necessary and proper.
4

5
6 DATED: May 26, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

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EXHIBIT A

Decision and Order

Medical Board of California of California Case No. 800-2014-006704

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Application of:

File No. 8002014006704

ELIZABETH ANNE SUTHERLAND

Applicant.

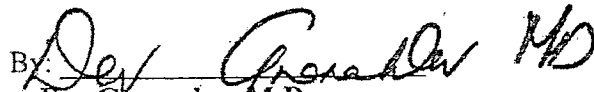
DECISION AND ORDER

The attached Stipulation for a Probationary License is hereby accepted and adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 7, 2014, although the probation will not commence until the applicant completes any remaining requirements for licensure and the license is issued.

ORDERED: July 31, 2014.

MEDICAL BOARD OF CALIFORNIA

By: 
Dev Ghanadev, M.D.,
Chair, Panel B

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Application of:)	Case No. 800-2014-006704
)	
ELIZABETH ANNE SUTHERLAND)	
)	STIPULATION FOR A
)	PROBATIONARY LICENSE
For a Physician's and Surgeon's License))	
_____)	

- 1) Elizabeth Anne Sutherland, applicant for a physician's and surgeon's license (hereinafter "applicant"), and Curtis J. Worden, Chief of Licensing of the Medical Board of California, hereby stipulate as follows:
- 2) Applicant has satisfactorily met all of the requirements for medical licensure in California.
- 3) On February 6, 2014, applicant submitted an application for a Physician's and Surgeon's License in the State of California. Applicant disclosed she has participated in a drug abuse recovery program and had a license to practice medicine subjected to action.
- 4) Section 480 (a) of the Business and Professions Code states that a board may deny a license on the grounds that the applicant has one of the following: Section 480 (a)(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license. Section 2234 of the Business and Professions Code states that the Board may take action for unprofessional conduct. Section 2239 of the Business and Professions Code states the use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the extent that such use impairs the ability of the licensee to practice medicine safely constitutes unprofessional conduct.

The above support a conclusion that grounds exist for denial pursuant to Sections 480(a)(3)(A), 2234, and 2239 of the Business and Professions Code.

- 5) Under Section 2221 of the Business and Professions Code, the Medical Board of California (Board) may deny a license to an applicant because of unprofessional conduct.

Alternatively, the Board has the discretionary authority to issue a probationary license with terms and conditions.

- 6) Applicant acknowledges she has a right to request a Statement of Issues and a hearing upon denial of license for cause. Applicant waives notice of hearing and judicial review in favor of this Stipulation for a Probationary License, which is subject to approval

by the Board. If not approved, this Stipulation is null and void and may not be used for any purpose.

7) This Stipulation for a Probationary License shall be subject to approval by the Medical Board of California. Applicant understands and agrees that counsel for the staff of the Medical Board of California may communicate directly with the Board regarding this proposed Stipulation, without notice to or participation by applicant or her counsel. By signing the Stipulation, applicant understands and agrees that she may not withdraw this agreement or seek to rescind the Stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this Stipulation, the offer of a Stipulation for a Probationary License shall be of no force or effect; except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

The staff recommends to the Board that a Probationary License be issued as follows:

ORDER

IT IS ORDERED THAT ELIZABETH ANNE SUTHERLAND, applicant, be issued a Physician's and Surgeon's License on a probationary basis, subject to the following terms and conditions:

1) Applicant is placed on probation for a period of five (5) years. Probation shall begin on the date the applicant is issued a probationary license.

2) BIOLOGICAL FLUID TESTING. Applicant shall immediately submit to biological fluid testing, at applicant's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, applicant shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to the Board or its designee within four (4) hours of the results becoming available. Applicant shall maintain this laboratory or service contract during the period of probation.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and applicant.

If applicant fails to cooperate in a random biological fluid testing program within the specified time frame, applicant shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The applicant shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within fifteen (15) days of the notification to cease practice. If the applicant requests a hearing on the

accusation and/or petition to revoke probation, the Board shall provide the applicant with a hearing within thirty (30) days of the requests, unless the applicant stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within fifteen (15) days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within fifteen (15) days of the issuance of the notification to cease practice or does not provide applicant with a hearing within thirty (30) days of a such request, the notification of cease practice shall be dissolved.

3) CONTROLLED SUBSTANCES – ABSTAIN FROM USE. Applicant shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to applicant by another practitioner for a bona fine illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, applicant shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If applicant has a confirmed positive biological fluid test for any substances (whether or not legally prescribed) and has not reported the use to the Board or its designee, applicant shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The applicant shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the applicant requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the applicant with a hearing within 30 days of the request, unless the applicant stipulates to later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide applicant with a hearing within 30 days of a request, the notification of cease practice shall be dissolved.

4) ALCOHOL-ABSTAIN FROM USE. Applicant shall abstain completely from the use of products or beverages containing alcohol.

If applicant has a confirmed positive biological fluid test for alcohol, applicant shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The applicant shall not resume the practice of medicine until final decision on an

accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the applicant requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the applicant with a hearing within 30 days of the request, unless the applicant stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probation time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide applicant with a hearing within 30 days of a request, the notification of cease practice shall be dissolved.

5) NOTIFICATION. Prior to engaging in the practice of medicine, applicant shall provide a true copy of the Stipulation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to applicant, at any other facility where applicant engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to applicant. Applicant shall submit proof of compliance to the Board or its designee within fifteen (15) calendar days.

6) SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, applicant is prohibited from supervising physician assistants.

7) OBEY ALL LAWS. Applicant shall obey all federal, state and local laws, and all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

8) QUARTERLY DECLARATIONS. Applicant shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all conditions of probation.

Applicant shall submit quarterly declarations not later than ten (10) calendar days after the end of the preceding quarter.

9) GENERAL PROBATION REQUIREMENTS. Applicant shall comply with the Board's probation unit and all terms and conditions of this decision.

Applicant shall, at all times, keep the Board informed of her business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code Section 2021(b).

Applicant shall not engage in the practice of medicine in applicant's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed

facility.

Applicant shall maintain a current and renewed California physician's and surgeon's probationary license.

Applicant shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event applicant should leave the State of California to reside or to practice, applicant shall notify the Board or its designee in writing thirty (30) calendar days prior to the dates of departure and return.

10) INTERVIEW WITH BOARD OR ITS DESIGNEE. Applicant shall be available in person upon request for interviews either at applicant's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

11) NON-PRACTICE WHILE ON PROBATION. Applicant shall notify the Board or its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting more than thirty (30) calendar days and within fifteen (15) calendar days of applicant's return to practice. Non-practice is defined as any period of time applicant is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event applicant's period of non-practice while on probation exceeds eighteen (18) calendar months, applicant shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's Manual of Model Disciplinary Orders and Disciplinary Guidelines' prior to resuming the practice of medicine.

Applicant's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice will relieve applicant of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

12) COMPLETION OF PROBATION. Applicant shall comply with all financial obligations (e.g. restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, applicant's certificate

shall be fully restored.

13) VIOLETION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If applicant violates probation in any respect, the Board, after giving applicant notice and the opportunity to be heard, may revoke probation and terminate the probationary license. If an Accusation or Petition to Revoke Probation is filed against applicant during probation, the Board or its designee shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

14) LICENSE SURRENDER. Following the effective date of this Stipulation, if applicant ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, applicant may request to surrender his or her license. The Board reserves the right to evaluate respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, applicant shall within fifteen (15) calendar days deliver applicant's wallet and wall certificate to the Board or its designee and applicant shall no longer practice medicine. Applicant will no longer be subject to the terms and conditions of probation. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

15) PROBATION MONITORING COSTS. Applicant shall pay all costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

Applicant agrees to comply with the terms and conditions of the above Order.

Elizabeth Anne Sutherland
Elizabeth Anne Sutherland, Applicant

7-15-2014
Date

Curtis J. Word
Curtis J. Worden, Chief of Licensing

7-17-2014
Date